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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. *2013-289*

12 **REGINA SMITH**
13 **11854 Paseo Lucido, #2094**
14 **San Diego, CA 92128**

A C C U S A T I O N

15 **Registered Nurse License No. 541235**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about March 4, 1998, the Board of Registered Nursing issued Registered Nurse
24 License Number 541235 to Regina Smith (Respondent). Respondent has also used the name
25 Regina Chrissundra Smith-White. The Registered Nurse License was in full force and effect at
26 all times relevant to the charges brought herein and will expire on March 31, 2014, unless
27 renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

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REGULATORY PROVISIONS

7. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

8. California Code of Regulations, title 16, section 1445(b), states:

When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Disciplinary Action by Texas Board of Nursing)

10. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4) on the grounds of unprofessional conduct in that Respondent was disciplined by the Texas Board of Nursing for violation of Texas Occupations Code sections 301.452(b)(10) (unprofessional or dishonorable conduct that, in the board's opinion, was likely to deceive, defraud, or injure a patient or the public) and 301.452(b)(13) (failure to care adequately for a patient or to conform to the minimum standards of acceptable nursing practice in a manner that, in the board's opinion, exposed a patient or other person unnecessarily to risk of harm). The circumstances are as follows:

11. On or about October 8, 2009, while employed at Baylor Surgical Center, Fort Worth, Texas, Respondent failed to call the results of a critical calcium level of Patient Medical Record Number 63191 to the physician's office; instead, Respondent faxed the results. Respondent's conduct could have resulted in delayed intervention by the physician required to treat the patient's condition.

12. On or about May 8, 2012, Respondent's Texas Nursing License No. 751925 was revoked because after proper and timely Notice regarding the violations alleged in the Formal Charges was given to Respondent by the Texas Board, Respondent failed to appear in accordance with 22 Tex. Admin. Code, Ch. 213.

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1 **PRAYER**

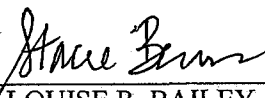
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 541235, issued to Regina
5 Smith;

6 2. Ordering Regina Smith to pay the Board of Registered Nursing the reasonable costs
7 of the investigation and enforcement of this case, pursuant to Business and Professions Code
8 section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

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11 DATED: October 12, 2012

12 *for* 
13 LOUISE R. BAILEY, M.ED., RN
14 Executive Officer
15 Board of Registered Nursing
16 Department of Consumer Affairs
17 State of California
18 Complainant

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